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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/743,080	12/23/2003	Atsushi Tomokuni	247041US0	8103
22850	7590	04/06/2007		
OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER CHANNAVAJJALA, LAKSHMI SARADA	
			ART UNIT	PAPER NUMBER
			1615	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		04/06/2007	ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 04/06/2007.

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**Office Action Summary**

Application No.

10/743,080

Applicant(s)

TOMOKUNI, ATSUSHI

Examiner

Lakshmi S. Channavajjala

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5-24-04</u> . | 6) <input type="checkbox"/> Other: ____.  |

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### **DETAILED ACTION**

Claim 1-10 are pending in the instant application.

Receipt of IDS dated 5-24-04 is acknowledged.

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Pub No. 2003/0103921 to Brucks et al (Brucks) in view of US 6,346,507 to Watanabe et al (Watanabe)

Brucks teaches structured, bicontinuous and clear microemulsion compositions in the form of liquid crystals comprising oils, hydrophilic solvent, non-ionic surfactant, waxes, oil structuring agents etc (paragraphs 0023-0026 & 0043). For solvents, see 0060-0065, which read on instant D. for oils, see 0066-0072, which reads on instant A. For instant non-ionic surfactants (B), see 0072-0077. The wax materials of Brucks include fatty alcohols of 14-24 carbon atoms (0136-0139), which read on instant C and claim 8. Brucks fails to teach the composition as a skin cleanser and also fails to teach the claimed percentage of component D, water. However, Brucks does teach water-in-oil microemulsions (0025 and 0155-0161).

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Applicants admit on page 4 of the instant specification that the Laid open Japanese Patent Application No- 2000-256124 (prior art cited by applicants mentions that this JP application) is equivalent to Watanabe.

Watanabe teaches a liquid crystal composition in the form of a bi-continuous type microemulsion (col. 6, L 63-67) comprising 10-60% of a nonionic surfactant, 1-50% of a water-soluble substance with a hydroxyl group, 1-70% of silicone, upto 10-60% water (col. 2). The specific surfactants, oils, solvents with OH groups are all described in col. 3, L 10 through col. 4, L 5). Applicants recite glycerin Example compositions in Table 8 and Table 12 recites ingredients that read on all the five components A-D of the instant claims and the percentages of the components in the above examples fall in the claimed percentage ranges. Thus, both Brucks and Watanabe teach liquid crystal microemulsions and while Brucks teaches that the composition can be used as an antiperspirant stick having a solid shape and soft texture, Watanabe suggests that the composition can be used for skin cleansing, particularly, in make removal (same purpose as that of the instant application) and in the form of lotions (see examples of Watanabe). Accordingly, it would have been obvious for one of an ordinary skill in the art at the time of the instant invention to employ microemulsion compositions of Brucks as antiperspirants or for skin cleansing or make up removal and depending on the type of formulation i.e., a solid stick versus a lotion, optimizing the amount of water in the emulsion composition of Brucks would have within the scope of a skilled artisan. Both Brucks and Watanabe teach the claimed surfactants and accordingly absent evidence to the contrary,

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the HLB of the surfactants is within the claimed range. Furthermore, optimizing the ratios of the individual components of microemulsion so as to achieve a clear and stable emulsion is within the scope of a skilled artisan. Generally, differences in concentration or temperature will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such concentration or temperature is critical. "Where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and includes: US 5,597,792 and US 6,805,871.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lakshmi S. Channavajjala whose telephone number is 571-272-0591. The examiner can normally be reached on 7.00 AM - 4.00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Woodward can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

AU 1615  
March 30, 2007

  
**LAKSHMI S. CHANNAVAJJALA**  
PRIMARY EXAMINER